



VOLUNTARY REGISTRATION OF LAND



What is voluntary registration?

You may have heard that a new land registration regime came into force in December 2014. One of its main purposes was to transfer all unregistered property in Scotland (i.e. predominantly land and buildings where the title is still recorded in the Sasine Register) on to the Land Register so that all property in Scotland is registered in the Land Register by 2024.

The Scottish Government see completion of the Land Register as a key priority for Scotland viewing a complete Land Register as a national asset. This is because a complete Land Register would make information about the ownership and rights or burdens affecting the land publicly available in one place in a much more readily accessible and clear format, making future conveyancing easier, faster and cheaper. Certain events, like the grant of a lease for 20 years or more, or the transfer of any part of a property (whether for value or not) will therefore, where the title to the land is still in the Sasine Register, now trigger the requirement for the Sasine title to be registered in the Land Register. From 1 April 2016, the registration of a security (i.e. a mortgage or legal charge) will trigger land registration of the underlying title as well. Registers of Scotland also have the power to unilaterally induce registration of a landowner's Sasine title ("Keeper induced registration") – an option that the Registers are likely to start actively pursuing from 2019 onwards.

However, the new regime makes it easier for landowners to voluntarily register their Sasine title in advance of those trigger events, or being compelled to do so. Voluntary registration would have a number of benefits (set out below) and we believe it would be worthwhile to consider the advantages of voluntary registration at an early stage.

What are the benefits?

The main benefit of voluntary registration is that the landowner retains control of the registration process.

Having a land registered title will give a landowner greater certainty about the extent of their title and the rights and burdens which affect it. This is particularly relevant where the existing title is unclear or there is no underlying title plan. A clearer, more certain title makes it easier when dealing with onward property transactions or developments on the property.

By choosing to voluntarily register now, a landowner will be better able to ensure that the title boundaries are correct, and protect against encroachment or other issues in the future. Potential title disputes are likely to be brought to light during the registration process and so can be dealt with at an early stage rather than at a critical point in a sale/development.

We suspect that many solicitors and land agents will be urging their clients to voluntarily register their Sasine titles, which may result in a bit of a 'race' to the Land Register, where the line of boundaries between properties is unclear. While there is no guarantee that the first party to register will get a better title (registration can no longer cure any underlying defects in a title) it is likely that the



first party to secure a registered title would have a better case in any ownership dispute, as long as they have a supporting title, there has been no deliberate misleading of the Keeper of the Registers, and they occupy the land in question.

What are the requirements?

An application for voluntary registration can be submitted to the Keeper at any point. The timing can therefore be tailored to suit a landowner's own requirements, as opposed to Keeper induced registration, where the landowner will have no control over timescales.

No formal deed of transfer is required, but an accurate plan, showing the extent of ownership and detailing certain rights or burdens affecting the property, is essential. The plan must be to a suitable scale, and comply with Registers of Scotland's deed plan criteria. We will assess the title deeds to determine if existing deed plans will meet the criteria. However in the majority of cases a new plan will need to be prepared, and we can identify what rights and burdens require to be shown on the plan. The landowner may have a preferred agent who can prepare the necessary plan, or we can obtain quotations from other suppliers. In either case, we will work with the agents to ensure that the final plan is suitable for land registration.

When submitting the voluntary registration application, we are required to certify to Registers of Scotland that the landowner has a good, valid title to the property. A statutory duty of care underpins that certification, and so we must have carried out an examination of the relevant titles (even where we have been previously involved with the property) to be satisfied as to the extent of, and the rights and obligations affecting, the property before we can submit an application.

Checking the title includes obtaining updated legal searches and a plans report to identify whether there are any competing registered titles. We may also need to investigate the title to some adjoining properties,

to ensure there are no discrepancies between the boundaries. In some cases, further evidence from the landowner, such as affidavits (or sworn statements) may be required, confirming ownership and occupation, or the exercise of related rights. We must also ensure that the landowner is not currently involved in any ownership or boundary disputes with neighbouring proprietors. Such disputes may need to be resolved prior to submission of the application.

What are the costs?

There is no charge to Land and Business Transaction Tax on voluntary registration, but Registers of Scotland will charge a registration fee based on the value of the property. This fee ranges from £60 to £7,500 depending on the value of the property (see table of fees opposite). A formal valuation report is not required provided that the figure is justifiable. The Registers are keen to encourage more voluntary registrations and, from 30 June 2015, will apply a 25% discount on their standard fees for voluntary registration applications for an initial period of 2 years.

Our own costs will depend on the extent and quality of the underlying title deeds and plans, and the precise requirements for the particular property. We can provide landowners with a cost estimate before proceeding, based on a preliminary review of the quality and quantity of the title, and we can discuss with the landowner whether there are any opportunities to limit the costs – including registration fees.



Registration Fees

Value of Property	Registration Dues (no discount)	Registration Dues (with 25% discount)
£0 - £50,000	£60	£45
£50,001 - £100,000	£120	£90
£100,001 - £150,000	£240	£180
£150,001 - £200,000	£360	£270
£200,001 - £300,000	£480	£360
£300,001 - £500,000	£600	£450
£500,001 - £700,000	£720	£540
£700,001 - £1,000,000	£840	£630
£1,000,001 - £2,000,000	£1,000	£750
£2,000,001 - £3,000,000	£3,000	£2,250
£3,000,001 - £5,000,000	£5,000	£3,750
£5,000,001 or more	£7,500	£5,625

We have an experienced team equipped to help a landowner's voluntary registration proceed as smoothly as possible. To discuss your requirements please get in touch with Andy Hall, one of our Voluntary Registration contacts or your usual contact at Shepherd and Wedderburn.

Key contact



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